

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

William Andrew Hipkiss,)	
)	
Plaintiff,)	
)	CA No. 4:23-cv-0268-HMH-TER
v.)	
)	OPINION AND ORDER
Dr. Drago, Head Doctor Well Path,)	
Dr. Rhodes, Well Path Doctor,)	
)	
Defendants.)	

Plaintiff, a pretrial detainee proceeding *pro se* and *in forma pauperis*, brought this action pursuant to Title 42, United States Code Section 1983. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. On December 11, 2023, mail was returned to the court as undeliverable with the notations “Return to Sender” and “deceased.” (ECF No. 48). On January 3, 2024, the magistrate judge entered an order allowing Defendant fifteen days to file a Suggestion of Death pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure. (ECF No. 50). Defendant filed the Suggestion of Death on January 18, 2024 (ECF No. 53), and asserted that despite diligent efforts and an exhaustive search, defendant was unable to locate a potential non-party representative. Rule 25(a)(1) of the Federal Rules of Civil Procedure states that

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1).

The court finds that ninety days have passed since the filing of the Suggestion of Death, no non-party representative could be located, and no motion has been made for substitution of the party.

Accordingly, this case is **DISMISSED without prejudice** pursuant to Fed. R. Civ. P. 25(a)(1).

IT IS SO ORDERED.

s/ Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
April 17, 2024

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.